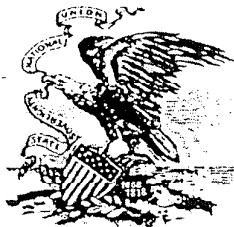


STATE OF ILLINOIS

DEPARTMENT OF INSURANCE



IN THE MATTER OF THE
REVOCATION OF THE LICENSING
AUTHORITY OF:

HEARING NO. 4048

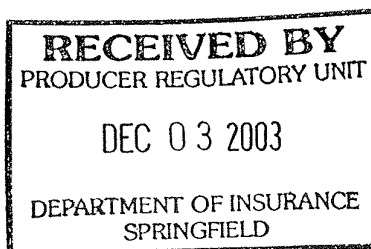
Laura L. Grantland-Sawka
19529 Manchester Court
Mokena, Illinois 60448

ORDER

I, J. Anthony Clark, Director of Insurance for the State of Illinois, hereby certify that I have read the entire Record in this matter and the hereto attached Findings of Fact, Conclusions of Law and Recommendations of the Hearing Officer, Timothy M. Cena, heretofore appointed and designated pursuant to Section 402 of the Illinois Insurance Code (215 ILCS 5/402) to conduct a Hearing in the above-captioned matter. I have carefully considered and reviewed the entire Record of the Hearing and the Findings of Fact, Conclusions of Law and Recommendations of the Hearing Officer attached hereto and made a part hereof.

I, J. Anthony Clark, Director of Insurance, being duly advised in the premises, do hereby adopt the Findings of Fact, Conclusions of Law and Recommendations of the Hearing Officer as my own, and based upon said Findings, Conclusions and Recommendations enter the following Order under the authority granted to me by Article XXIV of the Illinois Insurance Code (215 ILCS 5/401 et. seq.) and Article X of the Illinois Administrative Procedure Act (5 ILCS 100/10-5 et seq.).

This Order is a Final Administrative Decision pursuant to the Illinois Administrative Procedure Act (5 ILCS 100/1-1 et seq.). Further, this Order is appealable pursuant to the Illinois Administrative Review Law (735 ILCS 5/3-101 et seq.).

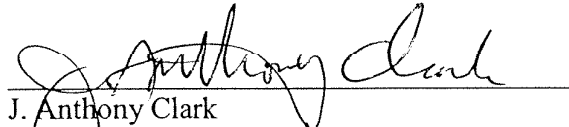


NOW IT IS THEREFORE ORDERED THAT:

1) The Illinois Insurance Producer's License of the Respondent, Laura L. Grantland-Sawka, is revoked;

2) The Respondent, Laura L. Grantland-Sawka, shall pay within 35 days of the date of this Order, as costs of this proceeding the sum of \$324.25, to the Illinois Department of Insurance, 320 W. Washington, 4th Floor, Springfield, Illinois 62767.

IN WITNESS WHEREOF, I have hereunto
subscribed my name and affixed the Official
Seal of the Department of Insurance in the City
of Springfield, State of Illinois, this 2nd day
of December, A.D., 2003.



J. Anthony Clark
Director

STATE OF ILLINOIS

DEPARTMENT OF INSURANCE



IN THE MATTER OF THE
REVOCATION OF LICENSING
AUTHORITY OF:

HEARING NO. 4048

Laura L. Grantland-Sawka
19529 Manchester Court
Mokena, Illinois 60448

FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATIONS OF THE HEARING OFFICER

Now comes Timothy M. Cena, Hearing Officer in the above-captioned matter and hereby offers his Findings of Fact, Conclusions of Law and Recommendations to the Director of Insurance.

FINDINGS OF FACT

1) On February 27, 2003 then Acting Director of Insurance, Arnold Dutcher (Director), issued an Order of Revocation, revoking the Illinois Insurance Producer's License of Laura L. Grantland-Sawka (Respondent) (Hearing Officer Exhibit # 2A).

2) On March 24, 2003 the Illinois Department of Insurance received a Request for Hearing on the revocation from the Respondent (Hearing Officer Exhibit # 2B).

3) On April 15, 2003 the Director issued a Notice of Hearing pursuant to the Respondent's request, setting an original hearing date and location of May 21, 2003 at the Department's Offices in Chicago, Illinois (Hearing Officer Exhibit # 2).

4) Mort Kamins filed a Notice of Appearance in this matter as Counsel for the Department of Insurance (Hearing Officer Exhibit # 2).

5) On April 15, 2003 the Director appointed Timothy M. Cena, as Hearing Officer in this matter (Hearing Officer Exhibit # 1).

6) On May 5, 2003 the Department filed a Motion for Continuance with Hearing Officer (Hearing Officer Exhibit # 3).

7) On May 16, 2003 the Hearing Officer granted the Department's Motion and continued this proceeding until June 25, 2003 (Hearing Officer Exhibit # 4).

8) The Hearing in this matter was convened on June 25, 2003, at 10:00 a.m., at the Department's Offices in Chicago, Illinois, at which time were present Timothy M. Cena, Hearing Officer; Mort Kamins, on behalf of the Department; Laura L. Grantland-Sawka, Respondent; and Yvette Riley and Richard Nitka, employees of the Department.

9) The purpose of this proceeding is to determine the Respondent's eligibility to hold an Illinois Insurance Producer's License and to determine whether the Director's Order of Revocation revoking said license for alleged violations of the Illinois Insurance Code and the Illinois Administrative Code should stand.

10) Yvette Riley, a staff accountant with the Illinois Department of Insurance, testified on behalf of the Department in this matter as follows:

- a) She has been employed as a staff accountant with the Department for three years and, as part of her duties with the Department, was assigned an investigatory file regarding the Respondent;
- b) The Department generated the file because of a letter received by the Department, dated August 3, 2001, from Farmer's Insurance Company (Farmer's) indicating that the company had terminated the Respondent's agency contract because the Respondent had failed to remit insurance premiums due to the company (Department Exhibit # 1);
- c) On August 10, 2001 the Department received a second letter from Farmer's (Department Exhibit # 2) regarding the termination indicating that a Farmer's internal control audit of the Respondent's Premium Fund Trust Account (PFTA) revealed a shortfall of at least \$1,114.20 of premium in the account.
- d) She requested from Farmer's a copy of the internal control audit and as well as various other documents during her investigation (see Department Group Exhibit # 3). From these documents she was able to determine that the shortfall in the PFTA actually totaled \$6,690.18 and involved 16 individual insureds;
- e) Farmer's auditor also prepared a PFTA Day-to-Day Bank Reconciliation Explainer for the period of May through July of 2001 (see Department Exhibit # 4). This document indicated that

the Respondent ran negative balances on numerous occasions in her PFTA throughout the audit period;

- f) As a part of her investigation she requested that the Respondent provide to her copies of her PFTA bank statements. The Respondent provided copies of her PFTA records from her account at Old Second National Bank (see Department Exhibit # 5). The witness testified that Department Exhibit # 5 indicated that the Respondent's PFTA was in a negative balance on July 2nd and July 3rd of 2001. (Note: the Exhibit # 5 submitted to the Hearing Officer and entered into the Record in this matter was a copy of the Respondent's June, 2001 bank statement and did not contain the information to which the witness testified);
- g) Witness Riley testified that the Respondent's PFTA account was not properly labeled (see Department Exhibit # 6). The Exhibit indicates that the Respondent's fiduciary account was labeled "Premium Fund Account" rather than Premium Fund Trust Account (parenthetical added). (Note: the PFTA negative balance information incorrectly testified to by the witness regarding Department Exhibit # 5, in fact, was contained in Department Exhibit # 6);
- h) In her conversations with the Respondent regarding this matter the Respondent at no time disputed the amounts that Farmer's claimed were due from the Respondent. The Respondent indicated that she was going to repay Farmers and, in fact, has repaid the outstanding amounts;
- i) On or about November 15, 2002 she received a letter from Farmer's regarding their payout to the Respondent pursuant to their agency contract. Farmer's indicated that the company had reduced their payout to the Respondent by a total of \$8,970.71 due to premium shortages in her account in that amount which had been collected by the Respondent from 24 accounts (Department Exhibit # 7). Farmer's had received all of the premiums due to the company from the Respondent as a result of her employment with Farmer's.

11) The Respondent, Laura L. Grantland-Sawka, testified on her own behalf in this matter, in a narrative form, as follows:

- a) She was a Farmer's agent for 15 years and was always willing and open during audits done by the company;

- b) She wasn't the best bookkeeper and that's where she believes that the problems came from;
- c) Farmer's conducted a surprise audit and took all of her records and she therefore doesn't have documentation to present at the hearing;
- d) She believes that "they did enough to me by terminating my employment after being an agent for 15 years;"
- e) Farmer's opened the PFTA for her 15 years ago. She believes that Farmer's misdirected her on the correct wording of the account;
- f) She always tried to do everything to the standards set by Farmer's but she admits having something to do with the problem because she did not keep her records properly;
- g) She believes that she completely cooperated with the Department's investigatory staff during their investigation;
- h) She has no explanation for the 16 insureds for which Farmer's claimed she owed money to the company, other than that she didn't reconcile her Premium Fund Trust Account.

12) Esquire Deposition Services transcribed the testimony taken in this matter and charged the Department \$324.25 for the transcript of the proceedings and the court reporter's attendance.

CONCLUSIONS OF LAW

Based upon the above-stated Findings of Fact and the entire Record of this matter the Hearing Officer offers the following Conclusions of Law to the Director of Insurance.

1) Timothy M. Cena was duly appointed as Hearing Officer in this matter pursuant to Section 402 of the Illinois Insurance Code (215 ILCS 5/402).

2) The Director of Insurance has jurisdiction over the subject matter and the parties to this proceeding pursuant to Sections 401, 402, 403 and 500-70 of the Illinois Insurance Code (215 ILCS 5/401, 5/402, 5/403 and 5/500-70).

3) The purpose of this proceeding is to determine whether the Order of Revocation previously issued in this matter by the Director, revoking the Respondent's Illinois Insurance Producer's License, should stand.

~ In its Order of Revocation and Notice of Hearing in this matter the Department alleges that the Respondent has violated Sections 500-70(a)(2), (a)(4) and (a)(8) and Section 500-115(a) of the Illinois Insurance Code (215 ILCS 5/500-70(a)(2), (a)(4), (a)(8) and 5/500-115(a). The

Department also alleges that the Respondent has violated Department of Insurance Regulations 50 Ill. Adm. Code 3115.50(g) and (h).

Sections 500-70(a)(2), (a)(4) and (a)(8) of the Illinois Insurance Code (215 ILCS 500-70(a)(2), (a)(4) and (a)(8)) provide, in part, as follows:

- (a) The Director may place on probation, suspend, revoke, or refuse to issue or renew an insurance producer's license or may levy a civil penalty in accordance with this Section or take any combination of actions, for any one or more of the following causes. . . ;
- (2) violating any insurance laws, or violating any rule, subpoena, or order of the Director or of another state's insurance commissioner. . . ;
- (4) improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business. . . ;
- (8) using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this State or elsewhere.

Section 500-115 of the Illinois Insurance Code (215 ILCS 5/500-115) provides, in part, as follows:

- (a) Any money that an insurance producer, limited line producer, temporary insurance producer, business entity, or surplus line producer receives for soliciting, negotiating, effecting, procuring, renewing, continuing, or binding policies of insurance shall be held in a fiduciary capacity and shall not be misappropriated, converted, or improperly withheld. An insurance company that delivers to any insurance producer in this State a policy or contract for insurance pursuant to the application or request of an insurance producer, authorizes the producer to collect or receive on its behalf payment of any premium that is due on the policy or contract for insurance at the time of its issuance or delivery and any premium that becomes due on the policy or contract not more than 90 days thereafter.

Sections 3113.50(g) and (h) of the Illinois Insurance Code (50 Ill. Adm. Code 3113.50(g) and (h)) provides, in part, follows:

- (g) Licensees shall prepare and maintain monthly financial institution account reconciliation of the PFTA,
- (h) Licensees shall maintain positive running balances in the PFTA. The positive balance shall be reflected in the check stubs or disbursement register after each deposit or disbursement entry.

The evidence presented in this matter by the Department indicates that the Respondent improperly withheld at least \$6,690.18 of insurance premiums due to Farmer's Insurance Company. The shortfall was discovered by a Farmer's internal control audit of the Respondent's books and records. A Department investigator testified that during her investigation the Respondent at no time denied or disputed the amounts that Farmer's recovered as due from the Respondent. Farmer's terminated the Respondent's agency contract with the company as a result of her manipulation of the premiums. Pursuant to their agency contract with the Respondent, Farmer's owed to the Respondent a lump sum payment at termination of the contract. The premium money in question was deducted from this payment and Farmer's issued the Respondent a check for the difference.

For her part the Respondent did not deny that the premium money was missing from her account, nor did she have a reasonable explanation for the shortfall. She testified that she did not misappropriate the money. Her only defense was that her record keeping was inadequate. The Hearing Officer believes that it is significant that the Respondent made no effort to contest the premium amounts claimed and deducted by Farmer's from the pay out on her agency contract. The Hearing Officer is not convinced that "poor record keeping" can cause money, once deposited into a PFTA account, to disappear from that account, nor does the Hearing Officer believe that a licensee would accept the termination of their agency contract and large deductions from their agency account for no just reason. While it is true that Farmer's has recouped all of the premium money owed to it by the Respondent, it apparently did so as a part of its contractual agreement with the Respondent and needed little or no co-operation from her to do so. The Hearing Officer has been offered no evidence in mitigation concerning the missing premium money and can only conclude that the Respondent misappropriated the premium funds entrusted to her for her own personal use.

The Department also alleged that the Respondent's Premium Fund Trust Account (PFTA) fell to a negative balance on a number of occasions during the time period covered by the Farmer's audit. The Department also alleged that the Respondent failed to make monthly bank reconciliation's of her PFTA, as well as, mislabeled her PFTA account. The Department presented sufficient evidence to prove these violations.

Based upon the evidence presented at the Hearing in this matter, the Hearing Officer concludes that the Director of Insurance properly and correctly revoked the Respondent's Illinois Insurance Producer's License pursuant to Sections 500-70(a)(4) in that the Respondent violated Section 500-115(a) of the Code by withholding premiums that are required to be held in a fiduciary capacity. The Hearing Officer further concludes that the Respondent handling of premium money collected by her also indicates that the Respondent has demonstrated

untrustworthiness, incompetence and financial irresponsibility in the conduct of business and, as such, are grounds for license revocation pursuant to Section 500-70(a)(8) of the Code. Finally, the Hearing Officer concludes that, pursuant to 50 Ill. Adm. Code 2402.270(d), the costs of the hearing should be assessed against the Respondent.

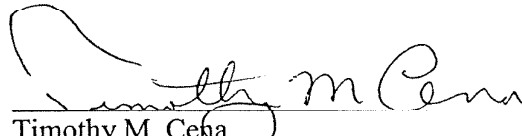
RECOMMENDATIONS

Based upon the above-stated Findings of Fact, Conclusions of Law and the entire Record in this matter the Hearing Officer offers the following Recommendations to the Director of Insurance:

- 1) That the Respondent's Illinois Insurance Producer's License be revoked; and;
- 2) That the Respondent be assessed the costs of this proceeding.

Respectfully submitted,

11/24/03


Timothy M. Ceka
Hearing Officer

Make checks payable to:

INVOICE BILLING NO: E38157



S DIRECTOR OF INSURANCE
E STATE OF ILLINOIS
N
D DEPARTMENT OF INSURANCE
320 W. WASHINGTON STREET
T SPRINGFIELD, IL 62767-0001
O

INVOICE DATE: 12/03/2003

PAYMENT DUE UPON RECEIPT
INTEREST MAY BE ASSESSED AFTER 30 DAYS

ITEMIZED BILLINGS :

B
I GRANTLAND-SAWKA LAURA L 69 PROD - MISCELLANEOUS \$325.25
L
L

T 19529 MANCHESTER CT
O MOKENA IL 60448

TOTAL: \$325.25

SHOW INVOICE NUMBER (E38157) ON REMITTANCE. DETACH TOP PORTION AND RETURN WITH REMITTANCE.

GRANTLAND-SAWKA LAURA L

TOTAL: \$325.25

Transcript costs for Hearing No. 4048
SS #319-58-7413